



## Appeal Decision

Site Visit made on 10 August 2021

**by R E Jones BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26 August 2021**

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**Appeal Ref: APP/B9506/D/21/3268387**

**The Cottage, Toms Lane Corner, Minstead SO43 7GF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr and Mrs Dee against the decision of New Forest National Park Authority.
  - The application Ref 20/00821, dated 9 November 2020, was refused by notice dated 30 December 2020.
  - The application sought planning permission for first floor extensions; conversion of attached stables to facilitate additional accommodation; alterations to fenestration; raised patio; demolition of existing porch; associated landscaping without complying with conditions attached to planning permission Ref 20/00452, dated 24 September 2020.
  - The conditions in dispute are Nos 1 and 3 which state that:
    1. *The development hereby permitted shall be begun before: The expiration of three years from the date of this permission; or the carrying-out of any further extension or enlargement to the dwelling otherwise permitted under Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 or any Order subsequently revoking or re-enacting that Order; whichever is the sooner.*
    3. *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) England Order 2015 (or any re-enactment of that Order) no extension (or alterations) otherwise approved by Classes A, B or C of Part 1 of Schedule 2 to the Order, garage or other outbuilding otherwise approved by Class E of Part 1 of Schedule 2 to the Order shall be erected or carried out without express planning permission first having been granted.*
  - The reasons given for the conditions are:
    1. *To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 and to ensure the dwelling remains of an appropriate size in accordance with Policies DP35 and DP36 of the adopted New Forest National Park Local Plan 2016- 2036 (August 2019).*
    3. *To ensure the dwelling remains of a size which is appropriate to its location within the countryside and to comply with Policies DP35 and DP36 of the adopted New Forest National Park Local Plan 2016- 2036 (August 2019).*
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The planning application included drawings showing a proposed single storey extension on the ground floor of the appeal dwelling's north elevation. However, I have not specifically assessed this in my determination of the appeal, as the issue in dispute in this case relates to the variation and removal of conditions.

## Main Issue

3. The main issue is whether condition Nos 1 and 3 are necessary and reasonable, having regard to local policy in respect of extensions to dwellings.

## Reasons

4. Policy DP36 of the New Forest National Park Local Plan (adopted 2019) (the Local Plan) sets out the circumstances where extensions to existing dwellings will be permitted. In this case, extensions to dwellings should not result in a floorspace increase to the existing dwelling<sup>1</sup> by more than 30%. The justification to the policy explains that proposals that incrementally extend dwellings in a nationally designated landscape can affect the locally distinctive character of the built environment. In addition, extensions can result in an imbalance in the range and mix of housing stock that is available, and a disproportionate number of larger dwellings. Where necessary the Authority will use appropriate planning conditions to ensure that permitted extensions are not used to undermine the aims of the policy.
5. The approved scheme included works and additions to the dwelling that will result in a 29% increase in floorspace which was in accordance with Policy DP36. Yet any further enlargement of the property would likely result in the 30% limit set by the policy being exceeded. Accordingly, the Authority thought it necessary to impose conditions (Nos 1 and 3) which restrict any further extensions to the dwelling that could be carried out under permitted development (PD) rights. From my assessment of those PD rights removed, works might include large side and rear additions that alter the appearance of the dwelling and significantly increase its overall scale and mass, as well as the 30% limit referred to in the policy.
6. The National Planning Policy Framework (the Framework) states that planning conditions should not be used to restrict national PD rights unless there is a clear justification to do so. Furthermore, the Planning Practice Guidance (PPG) states that conditions restricting the future use of PD rights or changes of use may not pass the test of reasonableness or necessity. The scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), so that it is clear exactly which rights have been limited or withdrawn.
7. The appellant considers that the imposition of conditions 1 and 3 are not reasonable and necessary in the context of the Framework and the PPG. However, the circumstances of this case relate to a nationally important landscape where there has been a consistent application of policy that restricts the cumulative expansion of dwellings so as to maintain consistency in built form and development. Allowing the appeal would weaken the application of Policy DP36 to the detriment of the intrinsic character of the National Park. Moreover, the Authority would not be able to regulate the scale of future alterations that may unacceptably alter the range and mix of housing stock that is available.
8. This approach of limiting the scope of extensions to existing dwellings was endorsed by the Inspectors who examined the current Local Plan. Accordingly,

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<sup>1</sup> Existing dwelling means the dwelling as it existed on 1 July 1982, or as the dwelling was originally built or legally established, if the residential use post-dates 1 July 1982.

I find that there is a clear justification for removing permitted development rights.

9. I acknowledge that the extension the appellant wishes to build is of modest proportion and may result in rationalising space internally, even so there would be nothing preventing further expansion of the dwelling with other additions permitted by the relevant PD rights, should I allow this appeal. This could result in further incremental and/or unsympathetic extending of the dwelling to the detriment of the area's character and the local housing stock.
10. Therefore, conditions 1 and 3 are necessary and reasonable, having regard to the legitimate purposes of protecting the locally distinctive character and maintaining a balanced range and mix of housing within the New Forest National Park, as sought by Local Plan Policy DP36.

### **Other Matters**

11. The appellant considers that a further planning application to enlarge the dwelling would be refused by the Authority. I have no firm indication that this would be the case, nonetheless, this is a matter outside of the appeal and should be pursued separately by the appellant.
12. The appeal site is located within the Forest Central South Conservation Area (CA). There are no specific objections raised by the Authority with respect to the proposal's effect on the significance of this CA. Given that this appeal relates to whether planning conditions are reasonable and necessary I have no reason to take a different view.

### **Conclusion**

13. For the reasons given above I conclude that the appeal should be dismissed.

*RE Jones*

INSPECTOR